THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition No.5756 of 1999

Dated 13-06-2007

Between:

Smt Aggu Ramavva and another

…Petitioners

And

Andhra Pradesh State Electricity Board and others,

…Respondents

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition No.5756 of 2007

ORDER:

Petitioner No.1 is the mother, and the 2nd petitioner is the sister of late Mallaiah, who was resident of Banswada of Nizamabad District. On 31-03-1998 Mallaiah was returning from forest, in the neighbourhood of old Banswada, carrying a load of firewood. The firewood is said to have come in contact with a live Conductor of 33/11 K.V. line, loosely hanging at that place. As a result, Mallaiah got severely electrocuted. Immediately, he was shifted to Government Hospital, at Banswada, but he was declared dead at 4 p.m. on that day. The Police registered a case under Section 174 Cr.P.C.

The petitioners filed this writ petition claiming compensation against the respondents for the death of the deceased-Mallaiah. According to them, he was the only bread-winner of the family;
and he was earning a minimum of Rs.50/- per day. They claimed a sum of Rs.9,36,000/-, as compensation. The writ petition was preceded by a notice dated 05-08-1998, and it is alleged that the respondents did not act on the notice.

On behalf of the respondents, a counter-affidavit is filed. It is silent as to the allegation made by the petitioners, about the occurrence of the accident, or the cause thereof. A serious objection is raised, as to the maintainability of the writ petition,
on the ground that disputed questions of fact cannot be decided in the writ petition, under Article 226 of the Constitution of India.

Heard the learned counsel for the petitioners and learned Standing Counsel for the respondents.

The death of Mallaiah, on account of electrocution, is not denied. In fact, it is borne out by record, *such as*, FIR No.110 of 1998, registered by Police Station, Banswada, on the very date of death itself. The petitioners got issued a notice dated 05-08-1998 to the respondents. There was no reply to this. As observed earlier, the

counter-affidavit filed by the respondents is totally silent about the occurrence of death, or the reason therefor. In a way, they have impliedly admitted the allegations of the petitioners in this regard.

It is no doubt true that the death of Mallaiah was on account of electrocution. However, the petitioners are under obligation to prove that there was negligence on the part of the respondents in maintaining the proper height of the high-tension wire. This needs recording of evidence. Further, the age and income of the deceased, and the entitlement of the petitioners to be paid the amount, claimed by them; were required to be proved to the satisfaction of the Court. Such disputed questions of fact cannot be decided in a writ petition.

This Court is of the view, that, at this length of time, the petitioners cannot be driven to a Civil Court, where serious dispute, as to the question of limitation would arise, and many more years would lapse, by the time any relief is granted to the petitioners. Both of them are in helpless condition. Though the claim made by the petitioners cannot be accepted in its entirety, this much can be said, that Mallaiah died on account of electrocution, and the respondents did not state in the counter affidavit filed in this writ petition, that it was attributable to any other factor. They did not choose to reply to the notice issued on behalf of the petitioners. This Court is of the view that ends of justice would be met,

if the petitioners are granted compensation of Rs.1 lakh (one lakh). Out of which, the 1st petitioner will be entitled to Rs.75,000/- (seventy five thousand) and the 2nd petitioner, Rs.25,000/- (twenty five thousand). In case the amount is deposited within two months from the date of receipt of a copy of this order, the amount does not carry interest. If the respondents fail to pay the amount, within that period, it would carry interest at 9% per annum from the date of the accident, to

the date of payment.

The writ petition is allowed to the extent indicated above.

There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.13-06-2007

Issue c.c. by 26-06-2007

(B/O)*KO**